

### **REMARKS/ARGUMENTS**

The Office Action mailed September 27, 2006 has been carefully reviewed. Reconsideration of this application, as amended and in view of the following remarks, is respectfully requested. The application as filed contained claims 1-50. Claims 41-50 are withdrawn in response to a restriction requirement. The claims presented for examination are: claims 1-40.

#### **Restriction Requirement**

In numbered paragraphs 1 and 2 of the Office action mailed September 27, 2006, the status of the Election/Restriction was stated. In the Election/Restriction Requirement mailed July 5, 2006, the Examiner restricted the prosecution to one of the inventions as grouped:

Group I. Claims 1-40, drawn to an autonomous monitoring apparatus, classified in class 435, subclass 287.1.

Group II. Claims 41-50, drawn to a method of monitoring air, water, soil or other substances, classified in class 435, subclass 7.1.

In response to the Election/Restrictions Requirement, Applicants elected, without traverse, the claims of Group I, Claims 1-40, drawn to an autonomous monitoring apparatus, classified in class 435, subclass 287.1. Claims 41-50 are withdrawn.

#### **35 USC §112 Rejection**

In numbered paragraphs 3-5 of the Office action mailed September 27, 2006, claim 27 was rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because the term "small" is a relative term which allegedly renders the claim indefinite.

Applicants have amended claim 27 to remove the allegedly indefinite term. Applicants believe that the amendment overcomes the rejection of claim 27 under 35 U.S.C. §112, second paragraph, and that a complete response to the rejection has been provided.

**Allowable Subject Matter**

On page 13, of the Office Action mailed September 27, 2006, claim 28 was objected to as being dependent upon a rejected claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 28 was a dependent claim depending from claim 22. Claim 22 was a dependent claim depending from claim 21. Claim 21 was a dependent claim depending from claim 1.

It is Applicants' intention to address the issues related to the "objection to claim 28 as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims" in order to place the application in condition for allowance.

Applicants have amended independent claim 1 to include all of the limitations of "allowable" claim 28 and the intervening claims 21 and 22.

Applicants believe that amended independent claim 1 is now in condition for allowance because it contains all of the limitations of "allowable" claim 28 and intervening claims 21 and 22.

Claims 21, 22, and 28 have been cancelled. Claims 23-26 have also been cancelled.

Applicants believe that claims 2-20, 27, and 29-40 that depend from amended independent claim 1 are also in condition for allowance. Applicants submit that the application is now in condition for allowance.

### **Other Rejections**

The Office Action mailed September 27, 2006 contained other rejections. Applicants believe these other rejections have been overcome or are not applicable to Applicants' amended independent claim 1 and the other claims presented for examination.

**SUMMARY**

The undersigned respectfully submits that, in view of the foregoing amendments and the foregoing remarks, the rejections of the claims raised in the Office Action dated September 27, 2006 have been fully addressed and overcome, and the present application is believed to be in condition for allowance. It is respectfully requested that this application be reconsidered, that the claims be allowed, and that this case be passed to issue. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the Examiner is invited to call the undersigned attorney at (925) 424-6897.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Eddie E. Scott", is written over a horizontal line.

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